

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

AGNES MILLEN, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
v.)	
)	
GEORGIA RENEWABLE POWER, LLC;)	Civil Action No. 3:21-cv-00042-CDL
GRP FRANKLIN, LLC d/b/a GRP)	
FRANKLIN I, LLC; VEOLIA ENERGY)	
OPERATING SERVICES, LLC; and)	
JOHN DOE CORPORATION 1-20,)	
)	
Defendants.)	

**DEFENDANTS GEORGIA RENEWABLE POWER, LLC AND GRP FRANKLIN I, LLC
d/b/a GRP FRANKLIN I, LLC’S MOTION FOR SUMMARY JUDGMENT**

Defendants Georgia Renewable Power, LLC and GRP Franklin, LLC d/b/a GRP Franklin I, LLC (collectively, the “GRP Defendants”) file this Motion for Summary Judgment on all Plaintiffs’ claims under Federal Rule of Civil Procedure 56. A Memorandum of Law setting forth the grounds of this Motion and a Statement of Undisputed Material Facts have been filed contemporaneously herewith. Exhibits in support of the Memorandum of Law and Statement of Undisputed Materials Facts are attached to the Statement of Undisputed Material Facts. Complete copies of the depositions and other discovery materials have been filed contemporaneously to complete the record.

For the reasons set forth in the Memorandum of Law, the GRP Defendants request the Court enter summary judgment in their favor:

(A) On all Plaintiffs’ nuisance claims because the Plant is not a nuisance as a matter of law; or alternatively:

- i. On all Plaintiffs' nuisance claims to the extent they allege the Plant was (and is) a nuisance beyond June 2021 because the Plant is an "agricultural support facility" that is operating within the law; or
- ii. On all Plaintiffs' nuisance claims to the extent they allege a nuisance existing beyond April 2022 because there is no evidence to support a finding of nuisance beyond that date;

(B) On all Plaintiffs' negligence claims because Plaintiffs cannot show the GRP Defendants have breached any duty that caused Plaintiffs' harm;

(C) On all Plaintiffs' claims for punitive damages because summary judgment is appropriate on Plaintiffs' substantive claims and there is no evidence of egregious conduct justifying an award of punitive damages;

(D) On all Plaintiffs' claims for attorneys' fees because Plaintiffs' substantive claims fail and there is no evidence the GRP Defendants have acted in bad faith, been stubbornly litigious, or caused unnecessary trouble and expense;

(E) On all Plaintiffs' claims to the extent Plaintiffs failed to disclose any computation of damages;

(F) On all Plaintiffs' claims to the extent they seek to recover for diminution of value of their property because they presented no evidence of such diminution if the opinions of Michael Biggers are excluded;

(G) On Plaintiffs' claims that they are harmed by vibrations caused by the Plant in the following cases: Millen (3:21-cv-42); Sweatman (3:21-cv-44); Elrod (3:21-cv-47); Baker (3:21-cv-48); Ayers (3:21-cv-49); Mark and Mayra Blalock (3:21-cv-50); Michael Blalock (3:21-cv-51); Abbs/Bellamy (3:21-cv-52); Smith (3:21-cv-54); Pruitt (3:21-cv-55); Schiffer (3:21-cv-56);

Pearcy (3:21-cv-57); O'Connor (3:21-cv-58); Higgins (3:21-cv-60); Jinks (3:21-cv-61); Hart (3:21-cv-62); Harris (3:21-cv-63); Dickens (3:21-cv-64); and

(H) On Plaintiffs' claims in individual cases as follows:

- i. (3:21-cv-42) Millen: on all claims as a result of Plaintiff's failure to present any evidence of harm from the Plant;
- ii. (3:21-cv-43) Nesmith: on the claims to the extent they are based on allegations of harm caused by smoke or claims of personal injury;
- iii. (3:21-cv-48) Baker: on the claims to the extent she alleges she suffered lost farming income;
- iv. (3:21-cv-52); Bellamy: on all claims as a result of Plaintiffs' purchase of their Property with full knowledge of the Plant and failure to request an abatement;
- v. (3:21-cv-53) Gettys: on the claims to the extent they allege harm as a result of odors emanating from the Plant;
- vi. (3:21-cv-55) Pruitt: on the claims to the extent they allege harm as a result of smoke emanating from the Plant and, concerning Plaintiff Ms. McKenzie, to the extent she alleges harm as a result of light emanating from the Plant;
- vii. (3:21-cv-58) O'Connor: on the claims to the extent they allege harm as a result of odor and smoke emanating from the Plant;
- viii. (3:21-cv-59) McCall: on the claims to the extent they allege a nuisance continuing after August 3, 2020;

- ix. (3:21-cv-63) Harris: on claims of continuing nuisance and loss of enjoyment because they do not live on their property and on the claims to the extent they allege harm as a result of odor emanating from the Plant; and
- x. (3:21-cv-64) Dickens: on the claims to the extent they allege harm as a result of a continuing noise nuisance existing after March 2021.

Respectfully submitted this 30th day of September, 2022.

/s/ M. Anne Kaufold-Wiggins

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CERTIFICATE OF SERVICE

I hereby certify that on this the 30th day of September, 2022, a copy of the foregoing has been served via statutory electronic service as follows:

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